(1118)

LEE ELMER E
78 STATE 302466

UNCLASSIFIED

UNCLASSIFIED
PAGE 01 STATE 302466
ORIGIN L-03
INFO OCT-01 ARA-15 ISO-00 SSO-00 SCS-06 /025 R
DRAFTED BY L/ARA:J.VANDERLYKE
APPROVED BY ARA: J. BUSHNELL
L/ARA - M.KOZAK
S/S-O:JETHYDEN

------------------018881 300702Z /13

O 300337Z NOV 78
FM SECSTATE WASHDC
TO AMEMBASSY GEORGETOWN IMMEDIATE
UNCLAS STATE 302466
E.O. 11652: N/A
TAGS: CASC, GY
SUBJECT: REQUEST FOR INFORMATION
REF: FORTUNE/KOZAK TELECON OF 11/29/78
FOR T. FORTUNE
1. PER YOUR REQUEST, FOLLOWING IS TEXT OF DECISION OF THE COMPTROLLER GENERAL CONCERNING DISPOSITION OF EFFECTS OF U.S. CITIZENS DYING ABROAD (43 COMPTROLLER GENERAL 52):
TITLE: PROPERTY--PRIVATE--CITIZENS DYING ABROAD--DISPOSITION
BEGIN TEXT: "A PROPOSED DISPOSITION OF THE UNIDENTIFIED EFFECTS (UNITED STATES AND FOREIGN CURRENCIES) OF A GROUP OF AMERICAN CITIZENS WHO DIED IN AN AIRPLANE ACCIDENT OVERSEAS TO TWO CHARITABLE ORGANIZATIONS BECAUSE THE NEXT OF KIN WERE UNABLE TO AGREE ON THE DISPOSITION OF THE EFFECTS

DEPARTMENT OF STATE A/CDC/MR
REVIEWED BY _____ DATE_____
RDS☐or XDS☐EXT. DATE _____
TS AUTH. _____ REASON(S) _____
ENDORSE EXEMPTIONS APPLY☐
DECLASSIFY ON _____

UNCLASSIFIED
UNCLASSIFIED
PAGE 02 STATE 302466
MAY NOT BE APPROVED UNDER 22 U.S.C. 1175 WHICH SPECIFIES THAT, IF A REPRESENTATIVE OF THE STATE DEPARTMENT CANNOT DISPOSE OF THE EFFECTS WITHIN 1 YEAR FROM THE DATE OF DEATH ACCORDING TO THE LAW OF THE DECEDENT'S DOMICILE, HE IS REQUIRED TO TRANSFER THE EFFECTS TO THE GENERAL ACCOUNTING OFFICE FOR THE COMPTROLLER GENERAL TO HOLD THE PROPERTY IN TRUST FOR THE LEGAL CLAIMANTS AND, IF THE PARTIES IN INTEREST DO NOT RESOLVE THEIR DIFFERENCES AFTER 6 YEARS THE PROPERTY IS REQUIRED TO BE TURNED OVER TO THE STATE OF THE LAST DOMICILE OF THE DECEASED CITIZENS.
TO THE SECRETARY OF STATE, JULY 12, 1963:
THIS IS IN RESPONSE TO A LETTER DATED APRIL 24, 1963, WITH ENCLOSURES, FROM THE HONORABLE WILLIAM J. CROCKETT, ASSISTANT SECRETARY FOR ADMINISTRATION, DEPARTMENT OF STATE. THE LETTER OF THE ASSISTANT SECRETARY SUBMITTED FOR OUR CONSIDERATION A PROPOSED DISPOSITION OF "UNIDENTIFIED EFFECTS", UNITED STATES AND FOREIGN CURRENCIES VALUED AT DOLLARS 631.47, WHICH HAD BEEN TURNED OVER TO THE AMERICAN EMBASSY AT PARIS BY THE FRENCH AUTHORITIES. THE MONIES WERE RELEASED TO THE AMERICAN EMBASSY AS BELONGING TO, ALTHOUGH INDIVIDUAL OWNERSHIP COULD NOT BE ESTABLISHED, THE

ONE HUNDRED AND TWENTY PASSENGERS WHO PERISHED IN AN AIR-
PLANE CRASH NEAR PARIS ON JUNE 3, 1962. THE VICTIMS WERE
AMERICANS, MAINLY FROM ATLANTA, GEORGIA.
AMONG THE ENCLOSURES WITH THE LETTER OF THE ASSISTANT
SECRETARY IS A COPY OF A LETTER DATED OCTOBER 8, 1962,
FROM THE MAYOR OF ATLANTA TO THE AMERICAN CONSUL GENERAL
AT PARIS. IT APPEARS THE MAYOR, PURSUANT TO CORRESPONDENCE
WITH THE CONSUL GENERAL, CONTACTED THE NEXT OF KIN OF THE
CRASH VICTIMS AS TO THE DISPOSITION OF THE "UNIDENTIFIED

EFFECTS." ALL BUT FOUR AGREED TO TURNING THE MONIES OVER
TO THE ART ASSOCIATION MEMORIAL FUND. OF THE FOUR EXPRESS-
ING DIVERGENT VIEWS, THREE WISHED THE RECIPIENT TO BE THE
CHILDRENS MEDICAL RESEARCH MEMORIAL, THE FOURTH PREFERRED
PUTTING THE MONIES INTO THE UNITED STATES TREASURY. THE
ART ASSOCIATION MEMORIAL FUND AND THE CHILDRENS MEDICAL
RESEARCH MEMORIAL ARE UNDERSTOOD TO BE CHARITABLE ORGANIZA-
TIONS IN THE CITY OF ATLANTA.
UNDER THE CIRCUMSTANCES, AND APPARENTLY AS A PRACTICAL
SOLUTION TO THE DILEMMA PRESENTED BY MONIES WHOSE INDIVIDUAL
OWNERSHIP CANNOT BE ASCERTAINED, THE EMBASSY AT PARIS
"PROPOSES THAT THE UNIDENTIFIED MONEY, DOLLARS 631.47,
BE DIVIDED INTO TWO PARTS, DOLLARS 50 TO BE DONATED TO
THE CHILDRENS MEDICAL RESEARCH MEMORIAL, AND THE REMAINDER,
DOLLARS 581.47, TO BE GIVEN TO THE ART ASSOCIATION MEM-
ORIAL FUND, WHICH ARE THE TWO CHARITIES SUGGESTED AS
BENEFICIARIES."
ESSENTIALLY THE LETTER OF THE ASSISTANT SECRETARY PRE-
SENTS THE QUESTION OF WHETHER THE EMBASSY'S PROPOSAL IS
AUTHORIZED, AND, IF NOT WHAT CONDITIONS WOULD HAVE TO BE
MET BEFORE IT COULD BE AUTHORIZED.
SECTION 1175, TITLE 22 OF THE UNITED STATES CODE, IM-
POSES UPON A CONSULAR OFFICER OR, IN HIS ABSENCE, A DIPLO-
MATIC OFFICER THE DUTY, UNDER SUCH PROCEDURAL REGULATIONS
AS THE SECRETARY OF STATE MAY PRESCRIBE, "TO TAKE POSSES-
SION AND TO DISPOSE OF THE PERSONAL ESTATE LEFT BY ANY
CITIZEN OF THE UNITED STATES WHO SHALL DIE
WITHIN HIS JURISDICTION ." THE CONSULAR OFFICER "SHALL
ACT AS THE PROVISIONAL CONSERVATOR OF THE PERSONAL PROPER-
TY WITHIN HIS JURISDICTION OF A DECEASED CITIZEN OF THE
UNITED STATES . HE SHALL RENDER ASSISTANCE IN

GUARDING, COLLECTING, AND TRANSMITTING THE PROPERTY
TO THE UNITED STATES TO BE DISPOSED OF ACCORDING TO THE
LAW OF THE DECENDENT'S DOMICILE." IF AFTER EXPIRATION OF
1 YEAR FROM THE DATE OF DEATH, THE CONSULAR OFFICER
CANNOT MAKE PROPER DISPOSITION OF THE PROPERTY, HE IS
REQUIRED UNDER THE SECTION, AS IMPLEMENTED BY THE REGULA-

TIONS OF THE SECRETARY OF STATE (7 FOREIGN AFFAIRS MANUAL 445), TO TRANSMIT THE PERSONAL ESTATE TO THE GENERAL ACCOUNTING OFFICE, "THERE TO BE HELD IN TRUST FOR THE LEGAL CLAIMANT." THE SECTION FURTHER PROVIDES THAT "THE COMPTROLLER GENERAL OF THE UNITED STATES SHALL ACT AS CONSERVATOR OF SUCH PARTS OF THESE ESTATES AS MAY BE RECEIVED BY THE GENERAL ACCOUNTING OFFICE "; AND, "IF NO CLAIM TO THE EFFECTS SHALL HAVE BEEN RECEIVED FROM A LEGAL CLAIMANT OF THE DECEASED WITHIN SIX YEARS FROM THE DATE OF THE RECEIPT OF THE EFFECTS BY THE GENERAL ACCOUNTING OFFICE, THE FUNDS SO DEPOSITED, WITH ANY REMAINING UNSOLD EFFECTS SHALL BE TRANSMITTED BY THAT OFFICE TO THE PROPER OFFICER OF THE STATE OR TERRITORY OF THE LAST DOMICILE IN THE UNITED STATES OF THE DECEASED CITIZEN ."
NOTWITHSTANDING THE PRACTICAL AND ETHICAL CONSIDERATIONS GIVING RISE TO THE EMBASSY'S PROPOSED DISTRIBUTION, WE CANNOT VIEW THE CONTEMPLATED ACTION AS A PROPER EXTENSION OF THE DUTIES AND RESPONSIBILITIES IMPOSED BY SECTION 1175, BOTH UPON THE FOREIGN SERVICE AND OUR OFFICE. IN THE ABSENCE OF UNANIMOUS CONCURRENCE BY THE VARIOUS POTENTIAL LEGAL CLAIMANTS, EFFECTUATION OF THE PROPOSED DISTRIBUTION WOULD NOT BE AUTHORIZED. RATHER, UNDER THE SECTION AND THE APPLICABLE REGULATIONS, THE MONIES INVOLVED SHOULD NOW BE TRANSMITTED TO OUR OFFICE, "TO BE HELD IN TRUST FOR THE LEGAL CLAIMANT," AND ULTIMATELY DISTRIBUTED, IF THE

PARTIES IN INTEREST DO NOT RESOLVE THEIR DIFFERENCES, TO THE STATE "OF THE LAST DOMICILE IN THE UNITED STATE OF THE DECEASED CITIZEN", APPARENTLY HEREIN THE STATE OF GEORGIA." END TEXT.
2. FOLLOWING IS TEXT OF JUNE 30, 1966 LETTER FROM L.F.S. BURNHAM, PRIME MINISTER OF GUYANA, TO HIS EXCELLENCY MR. U. THANT, SECRETARY-GENERAL TO THE UNITED NATIONS, CONCERNING GUYANA'S SUCCESSION TO TREATIES WITH THE U.K.: BEGIN TEXT. "SIR,
I HAVE THE HONOUR TO INFORM YOU THAT THE GOVERNMENT OF GUYANA, CONSCIOUS OF THE DESIRABILITY OF MAINTAINING EXISTING LEGAL RELATIONSHIPS, AND CONSCIOUS OF ITS OBLIGATIONS UNDER INTERNATIONAL LAW TO HONOUR ITS TREATY COMMITMENTS, ACKNOWLEDGES THAT MANY TREATY RIGHTS AND OBLIGATIONS OF THE GOVERNMENT OF THE UNITED KINGDOM IN RESPECT OF BRITISH GUIANA WERE SUCCEEDED TO BY GUYANA UPON INDEPENDENCE BY VIRTUE OF CUSTOMARY INTERNATIONAL LAW.
2. SINCE, HOWEVER, IT IS LIKELY THAT BY VIRTUE OF CUSTOMARY INTERNATIONAL LAW CERTAIN TREATIES MAY HAVE LAPSED AT THE DATE OF INDEPENDENCE OF GUYANA, IT SEEMS ESSENTIAL THAT EACH TREATY SHOULD BE SUBJECTED TO LEGAL EXAMINATION. IT IS PROPOSED AFTER THIS EXAMINATION HAS BEEN COMPLETED, TO INDICATE WHICH, IF ANY, OF THE TREATIES WHICH MAY HAVE

LAPSED BY CUSTOMARY INTERNATIONAL LAW THE GOVERNMENT OF GUYANA WISHES TO TREAT AS HAVING LAPSED.
3. AS A RESULT, THE MANNER IN WHICH BRITISH GUIANA WAS ACQUIRED BY THE BRITISH CROWN, AND ITS HISTORY PREVIOUS TO THAT DATE, CONSIDERATION WILL HAVE TO BE GIVEN TO THE QUESTION WHICH, IF ANY, TREATIES CONTRACTED PREVIOUS TO

1804 REMAIN IN FORCE BY VIRTUE OF CUSTOMARY INTERNATIONAL LAW.
4. IT IS DESIRED THAT IT BE PRESUMED THAT EACH TREATY HAS BEEN LEGALLY SUCCEEDED TO BY GUYANA AND THAT ACTION BE BASED ON THIS PRESUMPTION UNTIL A DECISION IS REACHED THAT IT SHOULD BE REGARDED AS HAVING LAPSED. SHOULD THE GOVERNMENT OF GUYANA BE OF THE OPINION THAT IT HAS LEGALLY SUCCEEDED TO A TREATY AND WISHES TO TERMINATE THE OPERATION OF THE TREATY, IT WILL IN DUE COURSE GIVE NOTICE OF TERMINATION IN THE TERMS THEREOF.
5. THE GOVERNMENT OF GUYANA DESIRES THAT THIS LETTER BE CIRCULATED TO ALL STATES MEMBERS OF THE UNITED NATIONS AND THE UNITED NATIONS SPECIALISED AGENCIES, SO THAT THEY WILL BE EFFECTED WITH NOTICE OF THE GOVERNMENT'S ATITUDE.
ACCEPT, SIR, THE ASSURANCE OF MY HIGHEST CONSIDERATION."
END TEXT.
3. L/T HAS INFORMED US THAT GUYANA HAS NOT NOTIFIED US OF THE TERMINATION OF ANY TRFATIES WITH U.K. VANCE